

2002 LEGISLATIVE SUMMARY



Virginia
Department of Taxation

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Tax Commissioner

INTRODUCTION

The **Legislative Summary** is published by the Department of Taxation (TAX) as a convenient reference guide to state and local tax legislation enacted by the 2002 Session of the General Assembly. It includes a general description of enacted legislation affecting:

- ◆ State taxes administered by TAX, and
- ◆ Local taxes for which TAX assists with administration or on which TAX renders advisory assistance.
- ◆ References to chapter numbers are to the corresponding chapters in the Acts of Assembly

The **Summary** also includes legislative studies in which TAX will be directly involved or acting in a technical support role. In general, however, legislation granting property tax exemptions, creating special taxing jurisdictions or affecting taxes administered by other state agencies is not included in the **Summary**.

The **Summary** is intended to provide a synopsis of enacted legislation and is for information purposes only. The **Summary** is not a substitute for the actual state law, local ordinances, and TAX regulations. Additional information on new legislation affecting state taxes may be obtained from TAX at the following telephone numbers:

Individual Income Tax	(804) 367-8031
Email: tax-indivtrn@state.va.us	(Personal tax inquires)
Corporation Income Tax	(804) 367-8037
Sales and Use Tax	(804) 367-8037
Employer Withholding Tax	(804) 367-8037
Email: tax-busqtns@state.va.us	(Business tax inquires)
Voice/TDD	(804) 367-8329

Additional information on new local tax legislation should be obtained from your local Commissioner of the Revenue, Treasurer or Director of Finance.

**Virginia Department of Taxation
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STATE TAX

LEGISLATION

INCOME TAX

Fixed Date Conformity with the Internal Revenue Code - New

House Bill 29 (Chapter 814) and House Bill 30 (Chapter 899) freeze Virginia's conformity to the federal income tax law as it existed on December 31, 2001.

Virginia's income tax has generally conformed to the federal income tax since 1972. "Virginia's taxable income," on which the tax is based, is defined as "federal adjusted gross income" (FAGI) for individuals and "federal taxable income" (FTI) for corporations.

Under this change, Virginia will no longer automatically conform with federal changes impacting the computation of FAGI or FTI. For example, Virginia does not conform to the provision of Job Creation & Worker Assistance Act (JCWAA) which was enacted in March 2002. Among other changes, the JCWAA created "bonus depreciation" for certain assets.

Effective Date: July 1, 2002

Section Amended: § 3-5.05 of the Appropriations Act of 2000

Section Added: § 3-5.05 of the Appropriations Act of 2002

Qualified Equity and Subordinated Debt Investment Tax Credit - Amended

House Bill 30 (Chapter 899) limits the amount of the Qualified Equity and Subordinated Debt Investments Tax Credit to \$4 million for calendar year 2002 and \$3 million for calendar years 2003 and 2004.

Effective Date: July 1, 2002

Section Added: § 3-5.03 of the Appropriations Act of 2002

Neighborhood Assistance Credits; Qualifying Nursing Services - New

House Bill 179 (Chapter 103) makes Neighborhood Assistance Act Credits available to nurses who donate time performing health care services at a qualified health clinic. A qualified health clinic is an approved clinic that provides health care services without charge, or which clinic charges based on patients' ability to pay.

Effective Date: July 1, 2002

Code Section Amended: § 63.1-325

Neighborhood Assistance Act - Amended

House Bill 1362 (Chapter 563) reduces the minimum monetary donation eligible to receive a tax credit under the Neighborhood Assistance Act from \$900 to \$500. This legislation also removes the \$1 million cap on credits available to individuals. The program's \$8 million annual cap remains unchanged.

Effective Date: July 1, 2002

Code Section Amended: § 63.1-325.2

Land Preservation Tax Credit - Amended

House Bill 1322 (Chapter 347) permits any taxpayer that earns a Land Preservation Tax Credit to transfer such credit to another corporate or individual income taxpayer via a process established by the Department of Taxation. This legislation also provides a subtraction for any gain or income recognized by a corporate or individual taxpayer as a result of the transfer of the credit.

Effective Date: For donations made on or after January 1, 2002

Code Section Amended: § 58.1-513

Individual Income Tax: Effective Dates for Interest Paid on Refunds - Amended

House Bill 39 (Chapter 184) and Senate Bill 530 (Chapter 462) reduce the time before interest begins to accrue on individual income tax overpayments (refunds) depending on the filing method chosen. Interest begins to accrue after 30 days (if filed electronically) or 60 days (if filed by paper) from the date a return is filed.

Effective Date: Returns filed for taxable years beginning on and after January 1, 2003

Code Section Amended: § 58.1-1833

Virginia War Memorial Foundation and the National D-Day Memorial Foundation Check-off - New

House Bill 645 (Chapter 413) creates an individual income tax check-off for voluntary contributions to be used by the Virginia War Memorial Foundation and the Virginia D-Day Memorial Foundation. Amounts contributed via this check-off are divided equally between the two foundations.

This legislation also allows TAX to retain up to five percent of all voluntary contributions, not to exceed \$50,000 per year, as reimbursement of its costs for administering all check-off programs.

Effective Date: Taxable years beginning on and after January 1, 2003, but before January 1, 2008

Code Sections Added: §§ 58.1-344.2 and 58.1-346.19

Home Energy Assistance Fund Check-off - New

House Bill 748 (Chapter 395) creates an individual income tax check-off for voluntary contributions to the Home Energy Assistance Fund to be used to assist low-income Virginians in meeting seasonal residential energy needs.

Effective Date: Taxable years beginning on and after January 1, 2003

Code Sections Added: §§ 58.1-344.2 and 58.1-346.19

Permanent Status for Housing Program Check-off - Amended

Senate Bill 524 (Chapter 460) makes permanent the existing individual income tax check-off for voluntary contributions to the Virginia Housing Program. This program provides housing assistance for the homeless, low-income elderly and the physically or mentally disabled.

Effective Date: July 1, 2002

Section Amended: Chapter 302 of the 1997 Acts of Assembly

Employer Withholding Tax

Additional Withholding Allowances - Amended

House Bill 30 (Chapter 899) makes effective legislation enacted in 1989 that allows taxpayers who itemize their deductions to claim additional withholding exemptions. The effective date of the 1989 legislation had been previously deferred on numerous occasions.

Effective Date: July 1, 2002

Code Sections Amended: §§ 58.1-461 and 58.1-462

Section Added: § 3-5.02 of the Appropriations Act of 2003

NOTE: It should be understood that this change was unintended. It is possible that the effect of this change may be reversed in a later session of the Virginia General Assembly.

RETAIL SALES AND USE TAX

Selected Dealers to Submit Estimated Payment - New

House Bill 29 (Chapter 814) required dealers whose July 2000 through June 2001 taxable sales exceeded \$1.3 million to remit a payment equal to 90 percent of the sales and use tax liability for June 2001 as the estimated amount of sales and use tax liability for the month of June 2002. This tax payment was required to be made on or before June 25, 2002. Those dealers paying by electronic funds transfer were allowed to remit payment by June 30, 2002. All affected dealers then filed their June returns on the normal due date and reconciled the accelerated payment with the actual June liability.

Effective Date: April 8, 2002

Section Added: § 3-5.01 of the Appropriation Act of 2000

Selected Dealers to Remit Estimated Payment - Extended

House Bill 30 (Chapter 899) requires dealers whose July 2001 through June 2002 taxable sales exceeded \$1.3 million to remit a payment equal to 90 percent of the sales and use tax liability for June 2002 as an estimated payment of sales and use tax liability for the month of June 2003. Such tax payments must be made on or before June 25, 2003. Those dealers paying by electronic funds transfer may remit payment by June 30, 2003. All dealers will then file their June returns by the normal due date and reconcile the accelerated payment with the actual June liability.

The filing requirements and qualification criteria of this legislation are effective for the final year of the biennium (2004) as well. Dealers whose July 2002 through June 2003 taxable sales exceeded \$1.3 million must remit a payment equal to 90 percent of the sales and use tax liability for June 2003 as an estimated payment of sales and use tax liability for the month of June 2004. Remittance dates for June 2004 are identical to those for payments made in 2003 and noted above.

The General Assembly intends to phase out this payment requirement beginning in fiscal year 2006. The payment amount for June 2006 should be reduced to 85 percent of the tax liability for June 2005 and future payment amounts should continue to be reduced until fully eliminated not later than June 2012.

Effective Date: July 1, 2002

Section Added: § 3-5.01 of the Appropriation Act of 2002

Food Purchased for Human Consumption - Redefined

House Bill 86 (Chapter 13) amends the definition of “food” used in the Food Tax Reduction Program to exclude food sold by retail establishments whose gross receipts derived from the sale of prepared food for immediate consumption constitute more than 80% of the total gross receipts of the establishment. When calculating the “80% rule,” total gross receipts include receipts from motor fuel purchases and all other purchases made at the establishment.

This legislation primarily excludes fast food establishments and restaurants that derive more than 80% of their total gross receipts from the sale of food prepared for immediate consumption from applying the reduced sales and use tax rate on sales of qualifying food. The calculation of total gross receipts to include motor fuel purchases ensures that establishments with high fuel sales, such as convenience stores, are ineligible for the exclusion.

Gross receipts information is calculated for each retail establishment that is deemed a dealer and holds a sales and use tax certificate of registration with TAX in accordance with Code of Virginia §§ 58.1-612 and 58.1-613.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-611.1

Revised Penalties for Misuse of Exemption Certificates - New

House Bill 1054 (Chapter 775) allows the Tax Commissioner to suspend a sales and use tax exemption certificate held by an organization upon a finding of improper use. The Tax Commissioner is required to suspend the certificate in accordance with current law if the organization knew or should have known that an individual had used its tax exemption certificate to make unlawful purchases in the aggregate in excess of \$1,000 in any calendar year. If the unlawful purchases are less than \$1,000, then the Tax Commissioner may suspend the certificate.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-623.1

Code Section Added: § 58.1-608.4

Film and Audiovisual Works Tax Exemption - Extended

House Bill 1118 (Chapter 777) extends the sunset date of the retail sales and use tax exemption for tapes and other audiovisual works for broadcasting or commercial exhibition, production services in connection with such audiovisual works, the transfer of certain tangible property related to such production services, and equipment and parts used in the production of audiovisual works. The exemption, previously scheduled to expire June 30, 2002, is extended to July 1, 2004.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-609.6

Extension of Sunset Date for Educational Materials Exemption- Amended

House Bill 23 (Chapter 183) and Senate Bill 203 (Chapter 228) extend the sunset date of the retail sales and use tax exemption for textbooks and other educational materials at book-publishing distribution facilities, when provided at no cost to professors and other individuals who have an educational focus, from July 1, 2002, to July 1, 2004.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-609.6

Limited Exemption for Internet Service Providers - New

House Bill 30 (Chapter 899) provides that for purchases made between July 1, 2003, and June 30, 2004, the exemption applicable to production, distribution and other equipment used by Internet service providers to provide Internet services, as defined in Code of Virginia § 58.1-602, will be administered through a refund request to the Tax Commissioner. The Tax Commissioner shall develop procedures for such refunds.

Effective Date: July 1, 2002

Section Added: § 3-5.02 of the Appropriations Act of 2002

Sales Tax Referendums in Hampton Roads and Northern Virginia for Transportation Projects - New

Senate Bill 668 (Chapter 853) creates the Eastern Virginia Transportation District (EVTD). Residents of localities within the EVT D will be entitled to vote in a referendum to impose an additional one percent sales and use tax within the district. Likewise, residents of the Northern Virginia Transportation District (NVT D) are entitled to vote in a referendum to impose an additional one-half of one percent sales and use tax within the NVT D.

If the sales and use tax increases authorized by this bill were approved in the referenda, all revenues generated by the additional tax would have been used solely to fund transportation projects within the districts. Also, the right of certain localities to impose a local income tax would have been repealed.

Effective Date: July 1, 2003; Contingent on referendum approval

Code Sections Amended: §§ 58.1-602, 58.1-605, 58.1-606, 58.1-611.1, 58.1-614, 58.1-626 and 58.1-3833

Code Sections Repealed: §§ 58.1-540, 58.1-541, 58.1-542, 58.1-543, 58.1-544, 58.1-545, 58.1-546, 58.1-547, 58.1-548, 58.1-549, 58.1-627 and 58.1-628

Code Sections Added: §§ 33.1-221.1:7, 58.1-604.4, 58.1-604.5 and 58.1-628.1

Various Nonprofit and Miscellaneous Organizations Exemptions- Amended

House Bill 1268 (Chapter 590) and Senate Bill 20 (Chapter 564) extend the sunset dates of sales and use tax exemptions for various organizations in the educational group of exemptions found in Code of Virginia § 58.1-609.4 to July 1, 2003.

SB 20 also extends the sunset date of the sales and use tax exemption for medical products and supplies when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement. The sunset date for this exemption was extended to July 1, 2003. (§ 58.1-609.7)

The following exemptions, currently found in paragraphs 3, 5, 6, 9, 24, 28, and 30 of § 58.1-609.4 within the educational group, were not extended:

- Certain nonprofit organizations providing day care services;
- Books and reading materials for use by nonprofit organizations organized solely to distribute the items to school-age children;
- Certain organizations providing education, training, and services to retarded citizens in Virginia;
- Organizations operating a combination boarding and day school at no charge to pupils;
- Organizations organized exclusively to emphasize scientific investigation and hold an annual science fair for students within the Tenth Planning District;
- Nonprofit corporations organized exclusively to operate a school that provides ecumenical Christian education for students in grades seven through twelve;
- Nonprofit organizations organized to develop a pool of data processing professionals who share their knowledge and expertise, sponsor high school computer competitions, community computer training camps, and free data processing workshops, and provide college scholarships to computer competition team members.

Effective Date: July 1, 2002

Code Section Added: § 58.1-609.4

MISCELLANEOUS TAXES

SCC Tax

Retaliatory Cost Tax Credit - Amended

House Bill 30 (Chapter 899) limits the amount of the retaliatory tax credit that can be claimed by certain insurance companies against the license tax on gross premiums imposed on insurance companies. For any taxable year beginning on or after January 1, 2001, an insurance company, or an affiliated group of insurance companies, must have more than 100 employees in Virginia during the entire taxable year to qualify for the credit.

Under this legislation, any insurance company that qualified for the retaliatory tax credit in taxable year 2001 or thereafter would be subject to a limit on the amount of credit that can be claimed. For license year 2003, the retaliatory tax credit that can be claimed by these companies is limited to 80% of the credit earned.

Effective Date: License years beginning July 1, 2002

Section Added: § 3-5.04 of the Appropriations Act of 2002

Recordation Tax

Leases for Outdoor Advertising Signs - Amended

House Bill 187 (Chapter 14) limits the recordation tax on leases of outdoor advertising signs to twenty-five dollars provided the person recording the lease is engaged in the business of outdoor advertising and is licensed by the Virginia Department of Transportation.

Under current law, the twenty-five dollar limitation is applicable only to the recordation of leases of outdoor signs for which a permit fee has been paid to the Virginia Department of Transportation

Effective Date: July 1, 2002

Code Section Amended: § 58.1-807

Soft Drink Tax

Soft Drink Excise Tax; Upper Tax Brackets Added - Amended

House Bill 193 (Chapter 15) increases the soft drink excise tax for wholesale and retailers whose gross receipts exceed \$10 million. The tax on wholesalers and distributors with gross receipts in excess of \$10 million, but less than \$25 million, has increased from \$6,000 to \$7,200. This legislation adds two new upper brackets, imposing a tax of \$18,000 if gross receipts exceed \$25 million, but do not exceed \$50 million and a tax of \$33,000 when gross receipts exceed \$50 million.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-1702

Cigarette Tax

Tobacco Sales Data and Available Tax Information - New

House Bill 909 (Chapter 722) allows the Department of Taxation to disclose certain information on the sales or purchases of cigarettes or other tobacco products to any federal, state, or local agency and any tobacco product manufacturer required to establish a qualified escrow fund under the Master Settlement Agreement. Further, tobacco product manufacturers must file a monthly report with the Department of Taxation identifying all purchasers of cigarettes showing the quantities and brands of cigarettes purchased for the preceding month and any other information the department deems necessary. Any manufacturer who fails or refuses to file the report or fails or refuses to allow such an audit would be guilty of a Class 2 misdemeanor and may be subject to a \$5,000 civil penalty.

Finally, this legislation restricts the purchase of Virginia revenue stamps from anyone other than the Department of Taxation. Violation of this provision is a Class 6 felony. The department may also revoke the permit issued to any person who violates this provision.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-1009

Code Sections Added: §§ 58.1-3.2 and 58.1-1008.1

Reporting Requirements for Cigarettes Imported into Virginia - New

House Bill 1221 (Chapter 821) requires that persons who affix Virginia cigarette stamps to cigarettes imported into Virginia from outside the United States provide the department with a sworn statement identifying the brand and brand styles of imported cigarettes that were stamped the previous month. Persons who have reported all of the required information under another provision of the Code of Virginia are exempt from this requirement. Also, the Department of Taxation must maintain information identifying all wholesale or retail dealers who affixed state tax stamps to each package of cigarettes for a period of no less than three years and to make the information available for public inspection.

Effective Date: July 1, 2002

Code Sections Amended: §§ 58.1-1009, 58.1-1033, and 58.1-1034

LOCAL TAX

LEGISLATION

GENERAL PROVISIONS

Commissioners of Revenue; Authority to Summon - Amended

House Bill 316 (Chapter 363) provides that no person other than the taxpayer may be convicted of the crime of refusing to answer questions or furnish records or other information regarding said taxpayer. Third parties may be convicted if they have willfully failed to comply with a summons properly issued by the Commissioner of the Revenue.

Under current law, any person who so refuses to cooperate with the Commissioner of the Revenue can be convicted of a Class 3 misdemeanor, regardless of whether or not a summons has been issued.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3111

Payment of Tax; Checks Payable to Treasurer - Amended

Senate Bill 65 (Chapter 139) requires taxpayers make their checks payable to "Treasurer (or title of other officer or employee who performs the duties of a treasurer) of (name of locality)" or "(name of locality)" when remitting state and local tax payments and other amounts payable into the treasury of a locality.

Effective Date: July 1, 2002

Code Sections Amended: §§ 58.1-1800 and 58.1-3910

Creation of Technology Zones - New

Senate Bill 343 (Chapter 449) authorizes any county, city, or town to adopt a local enterprise zone development taxation program for any technology zone, regardless of whether the technology zone has been designated as an enterprise zone.

Any city, county or town may currently establish one or more technology zones for up to ten years. Localities may grant certain local tax incentives and provide certain regulatory flexibility in a technology zone. The establishment of a technology zone does not disqualify the area from also being designated as an enterprise zone.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3850

Code Section Added: § 58.1-3245.12

TANGIBLE PERSONAL PROPERTY TAX

Reclassification of Horse Trailers – New

House Bill 181 (Chapter 6) reclassifies privately owned trailers, designed and used for the transportation of horses as a separate class of tangible personal property for local property taxation purposes. Localities may now impose a tangible personal property tax on these trailers at a rate of tax and rate of assessment not to exceed that applicable to the general class of tangible personal property in the locality.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3506

Classification for Biotechnology Equipment - New

House Bill 574 (Chapter 63) and Senate Bill 209 (Chapter 148) reclassify equipment used for research, development, production or provision of biotechnology to be in a separate class of tangible personal property. Localities may impose a tangible personal property tax on equipment used for research, development, production, or provision of biotechnology at a rate of tax and rate of assessment which does not exceed that applicable to the general class of tangible personal property in the locality.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3506

Refund or Credit for Vehicles Sold – Amended

House Bill 1160 (Chapter 550) provides that the amount of tax relieved when a vehicle is disposed of after tax day shall be either refunded, or credited against other personal property taxes owed by the taxpayer, at the option of the locality. Under current law, the option of choosing a refund or a credit against other taxes owed is offered to the taxpayer.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3516

Real Estate Cooperative Act - New

House Bill 647 (Chapter 34) provides that residential cooperative associations are not businesses for any state and local purposes to the extent that they collect payments from residents of the cooperative. Further, it specifies that tangible personal property owned by residential cooperative associations may qualify for the local tangible personal property tax exemption for household goods and personal effects.

Effective Date: July 1, 2002

Code Section Amended: § 55-428

Personal Property Tax Relief Act Compliance Program - New

House Bill 30 (Chapter 899) directs the Department of Taxation, with cooperation from the Department of Motor Vehicles, the Department of Accounts, and local officials, to develop and implement a comprehensive Personal Property Tax Relief Act (“PPTRA”) compliance program to enhance taxpayer knowledge and compliance with the PPTRA and to ensure that relief under the PPTRA is only granted to qualifying vehicles. The program will include methods for educating motor vehicle owners, certifications from motor vehicle owners during any vehicle registration that the vehicle qualifies for relief, and a periodic audit of the personal property tax records of localities to ensure compliance with the PPTRA.

Effective Date: July 1, 2002

Code Section Amended: Item 285 G of the Appropriations Act of 2002

REAL ESTATE TAX

Service Districts; Property Tax - New

House Bill 227 (Chapter 356) and Senate Bill 275 (Chapter 230) authorize localities that impose a tax pursuant to service district authority, to base the tax on the full assessed value of the taxable property within the service district, notwithstanding any special use value assessment of such property, provided the property owner consents.

Effective Date: July 1, 2002

Code Section Amended: § 15.2-2403

Sanitary Districts; Basis of Property Assessments - New

House Bill 228 (Chapter 194) authorizes localities that have established sanitary districts to base their tax assessments within sanitary districts on fair market use rather than on a land use assessment, provided the property owner consents.

Effective Date: July 1, 2002

Code Section Amended: § 21-118

Classification of Real Property Improvements in Fairfax City - New

House Bill 239 (Chapter 16) reclassifies improvements to real property located in the City of Fairfax as a separate class of real property. As a result, the City of Fairfax is authorized to impose a real property tax on the improvements at a tax rate that does not exceed the rate applicable to the land on which the improvements are made.

Effective Date: July 1, 2003

Code Section Amended: § 58.1-3221.1

Partial Exemption for Rehabilitated Structures - Amended

House Bill 911 (Chapter 21) and Senate Bill 119 (Chapter 144) remove the size limit of replacement multifamily residential structures that qualify for the local option real property tax partial exemption for replacement residential structures. These bills also clarify that localities may establish square footage requirements for all structures that qualify for the partial exemption for replacement residential structures.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3220

Exemption and Deferral of Tax for Elderly or Disabled - Amended

House Bill 853 (Chapter 20) and Senate Bill 544 (Chapter 171) increase the value of real estate that may be excluded in determining the combined financial worth limitation for a deferral or exemption of real estate taxes owed by persons sixty-five years or older, or those who are permanently and totally disabled from one acre to a maximum of twenty-five acres of non-income producing property. This provision applies to the Eighth Planning District (Northern Virginia) only.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3211

Properties Eligible for Use Value Assessment - Redefined

Senate Bill 685 (Chapter 475) authorizes certain localities to reduce the minimum acreage requirement for real estate to be eligible for use value assessment and taxation. The minimum acreage requirement would be reduced from two acres to one-quarter acre for real estate devoted solely to open space and adjacent to a scenic river, a scenic highway, a Virginia byway or public property in the Virginia Outdoors Plan. The minimum acreage requirement is likewise reduced for real estate in any city, county or town having a density of population greater than 5,000 per square mile and for real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3233

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAX

Exemption for Condominium Association Common Expenses – New

House Bill 303 (Chapter 17) provides an exemption from the local Business, Professional and Occupational License (BPOL) tax to condominium associations for assessments paid by condominium unit owners for common expenses.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3703

Exemption for Certain Receipts of Real Estate Professionals - New

House Bill 503 (Chapter 532) provides an exclusion from the local Business, Professional and Occupational License (BPOL) tax to certain real estate brokers for desk fees and other overhead costs paid to the brokers by real estate agents.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3732.2

BPOL Tax Appeals Process - Amended

House Bill 317 (Chapter 364) enables taxpayers to utilize the Business, Professional and Occupational License (BPOL) tax administrative appeals process through the local Commissioner of the Revenue and the Department of Taxation to appeal all assessments and denials of refund requests of BPOL taxes. Prior to this change, only audit assessments of BPOL tax could be appealed to the Department of Taxation.

In order to utilize the BPOL administrative appeals process, taxpayers must file their appeals with the local assessing officer within one year of the last day of the tax year for which the assessment is made, or within one year of the date of the appealable event, whichever is later. Further, should a taxpayer not receive a final determination on an appeal from the local assessing officer within two years of filing the appeal, the taxpayer may treat the lack of action as an adverse final local determination, eligible for appeal to the Department of Taxation.

Effective Date: Effective for all appeals filed on or after July 1, 2002. The provision authorizing a taxpayer who has not received a final local determination within two years to file an appeal with the State Department of Taxation would be effective for all appeals pending or filed on or after July 1, 2002.

Code Section Amended: § 58.1-3703.1

Local Business Tax Appeals- Amended

House Bill 318 (Chapter 525) provides that in order to utilize the administrative appeals process for the local machinery and tools tax, business tangible personal property tax and merchant's capital tax through the local Commissioner of the Revenue and the Department of Taxation, taxpayers must file their appeals within one year of the last day of the tax year for which the assessment is made, or within one year of the date of assessment, whichever is later. Further, should a taxpayer not receive a final determination on an appeal from the local assessing officer within two years of filing the appeal, the taxpayer may treat the lack of action as an adverse final local determination eligible for appeal to the Department of Taxation.

Previously, taxpayers wishing to appeal their local determination were required to submit a formal request for appeal to the Department of Taxation within 90 days of receiving their final local determination.

Effective Date: Effective for all appeals filed on or after July 1, 2002. The provision authorizing a taxpayer who has not received a final local determination within two years to file an appeal with the State Department of Taxation would be effective for all appeals pending or filed on or after July 1, 2002.

Code Section Amended: § 58.1-3983.1

Professional Corporations and Professional Limited Liability Companies - Amended

House Bill 1315 (Chapter 346) provides that localities shall impose the Business, Professional and Occupational License (BPOL) tax on professional corporations and professional limited liability corporations rather than on their shareholders and members. Current law requires localities to impose the BPOL tax on the shareholders and members of professional corporations and professional limited liability companies, and not on the entities.

Additionally, any pass-through entity, such as an S corporation, a partnership or a limited liability company, may exclude from its BPOL gross receipts any receipts attributable to business conducted in another state or foreign country in which its shareholders, partners or members are liable for an income or other tax based upon income in lieu of the business.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3732

Code Sections Repealed: §§ 13.1-554 and 13.1-1119

MISCELLANEOUS TAXES

Coal and Gas Road Improvement Tax

Extension of Sunset Date - Amended

House Bill 862 (Chapter 772) extends the sunset date for the local coal and gas road improvement tax from December 31, 2002, to December 31, 2007.

Effective Date: July 1, 2002

Code Section Amended: Chapter 646 of the Acts of Assembly of 1978, as amended by Chapter 539 of the Acts of Assembly of 1985, as amended by Chapter 393 of the Acts of Assembly of 1991, and as amended by Chapters 614 and 635 of the Acts of Assembly of 1995.

Transient Occupancy Tax

Arlington County Authorized to Impose Additional Tax - New

House Bill 963 (Chapter 259) and Senate Bill 562 (Chapter 173) allow any county with a county manager plan of government (currently only Arlington County) to impose an additional transient occupancy tax at a rate not to exceed two percent only if the county's governing body approves the construction of a county conference center. Revenues generated from the additional tax may be used for the design, construction, debt payment and operation of the conference center.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3823

Arlington County's Authority to Impose Tax – Extended

House Bill 965 (Chapter 646) and Senate Bill 390 (Chapter 567) extend the sunset date on Arlington County's authority to impose a ¼ percent transient occupancy tax to January 1, 2006. Such authority was scheduled to expire December 31, 2002.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3822

Consumer Utility Tax

Authority to Tax; Town of Orange - New

House Bill 274 (Chapter 17) authorizes the Town of Orange to impose a consumer utility tax on telegraph and telephone companies. This legislation also provides that at the time this ordinance is enacted, the County of Orange may no longer impose the consumer utility tax within the Town of Orange.

Effective Date: July 1, 2002

Code Section Amended: § 58.1-3812

Localities Share of the Electric Utility Consumption Tax - Amended

House Bill 1202 (Chapter 339) allows any locality not currently receiving the revenues generated by the local component of the electric utility consumption tax in that locality because they did not impose the license tax as of December 31, 2000 to receive such revenues. Currently, this component is being collected from electricity consumers in those localities and deposited into the General Fund.

Effective Date: January 1, 2003

Code Sections Amended: § 58.1-2901

Local Property Tax

Referendum; Local Governments to Grant Tax Exemptions - New

House Bill 36 (Chapter 630) authorizes a referendum at the November 5, 2002 election to approve or reject an amendment to the Constitution of Virginia allowing local governing bodies to grant tax exemptions for property used for charitable and certain other purposes by local ordinance, subject to restrictions provided by general law.

Effective Date: January 1, 2003

Code Sections Amended: Section 6 of Article X of the Constitution of Virginia, relating to taxation and finance; exempt property

Taxation of Electric Suppliers - Amended

Senate Bill 259 (Chapter 444) excludes from the definition of the term "electric supplier" for purposes of local real and personal property taxation, all persons who own or operate generating facilities that have a capacity of 25 megawatts or less. The property of such persons will be assessed and taxed by local governments. The rate of tax applicable to their real property would not change. However, under this provision, their personal property is subject to taxation at the rate applicable to machinery and tools.

Under current law, only persons who own or operate solar, wind or hydroelectric generating facilities with a capacity of 25 megawatts or less are excluded from the definition of an "electric supplier" for purposes of property taxation.

Effective Date: April 2, 2002;

Code Sections Amended: §§ 58.1-2600 and 58.1-2628

LEGISLATIVE

STUDIES

HB 414: Study of Medical Savings Accounts

House Bill 414 (Chapter 372) revises the Virginia Medical Savings Account Act by eliminating the responsibilities of the Workers' Compensation Commission and the Department of Medical Assistance Services. This bill also requires the Department of Taxation to develop a system of refundable tax credits for medical savings accounts and report its proposal to the Joint Commission on Health Care and to the chairmen of the House Appropriations and Senate Finance Committees by November 1, 2002.

HJ 60: Continuing the Joint Subcommittee Studying the Revision of the State Tax Code

The Joint Subcommittee to Study and Revise Virginia's State Tax Code to ensure that Virginia's tax code is fair, uniform, understandable, and contemporary is continued. Among other items, the joint subcommittee will examine the report and recommendations of prior studies while seeking broad input from all levels of government, the private sector, and Virginia's citizens. The subcommittee shall complete its work by November 30, 2002, and shall submit its written findings and recommendations.

HJ 73: Analysis of Bordering States Sales and Use Tax Exemption Process

The Department of Taxation is requested to collect information pertaining to the methods utilized for approving and administering sales and use tax exemptions by the States of Maryland and North Carolina. The department will collect various information including each state's procedures for granting sales and use tax exemptions, issuing certificates or letters of exemption, ensuring proper use of such certificates, and dealing with the administration of the program. The department will provide by August 1, 2002, the information it has collected to the subcommittee to study and revise Virginia's state tax code for inclusion in the joint subcommittee's report of its findings and recommendations to the Governor and the 2003 Session of the General Assembly.

HJ 209: Study of Local Taxation of the Telecommunications Industry

The joint subcommittee will examine state and local taxes imposed on the telecommunications industry and its customers to ensure that the taxes imposed on this industry are fair and equitable to all elements of the telecommunications industry, and its customers, and are relatively easy to administer and collect. The Department of Taxation will provide technical assistance to the joint subcommittee upon request.

SJ 59: Streamlined Sales Tax Project

This resolution encourages the Governor to provide executive branch participation in the Streamlined Sales Tax Project by appointing the Tax Commissioner as its representative with the authority to vote on behalf of the Commonwealth. In addition, the General Assembly will continue to monitor discussions of the project.

SJ 91 and HJR 69: Continues Joint Subcommittee Studying Economic Incentives to Promote the Growth and Competitiveness of Virginia's Shipbuilding Industry

The joint subcommittee will continue to examine a number of issues including, the development of a water treatment process that consistently meets Virginia's 50 parts per trillion TBT discharge standard, additional methods for providing better training to and reducing turnover among shipyard workers, and promoting Norfolk's piers as an original point of departure for cruise ships as a means of developing new business for Virginia's shipyard companies. The subcommittee will complete its work by November 30, 2002 and submit a report to the Governor and the General Assembly. The Department of Taxation will provide technical assistance upon request.

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